

FILED

PETER N. PERRETTI, JR.
ATTORNEY GENERAL OF NEW JERSEY

November 17, 1989

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**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
OAL DOCKET NO. BDS 03936-88

In the Matter of the Suspension	:	
or Revocation of the License of	:	Administrative Action
LARRY SABEL, D.C.	:	CONSENT ORDER
To Practice Chiropractic in	:	
the State of New Jersey	:	

This matter was opened to the Board of Medical Examiners on the Complaint of the Attorney General of New Jersey, Linda S. Ershow-Levenberg, Deputy Attorney General, appearing. It appearing that following a hearing on the Complaint, the parties have arrived at a mutually agreeable settlement of the issues, and it further appearing that Dr. Sabel consents to the entry of the within Order without admitting any of the allegations of the Complaint, and good cause having been shown for the entry of the within Order,

IT IS therefore, on this 30 day of OCTOBER, 1989

ORDERED:

1. Dr. Sabel shall not take, bill for, or utilize for diagnostic or treatment purposes, x-rays which are of nondiagnostic quality.

2. Dr. Sabel shall not use threatening, intimidating or profane language in communicating or dealing with his patients or with prospective patients.

3. Dr. Sabel shall individually tailor all proposed treatment plans for his patients by taking into account the individualized signs, symptoms and chiropractic needs of his patients.

4. Dr. Sabel shall clearly indicate to his patients that his projected or even scheduled treatment regimens are merely estimates which shall be subject to revision and reconsideration upon subsequent patient visits consistent with the usual and customary standards of chiropractic practice, and he shall in fact engage in such revision and reconsideration on an ongoing basis.

In all cases, the initial estimated or scheduled treatment plan which was articulated to the patient shall be recorded in the patient record, both as to frequency and duration. When revisions to the plan occur, such revisions shall be entered in the patient's record with a note of explanation.

5. Dr. Sabel shall refer his ongoing patients to other health care professionals for consultation or treatment when a reasonably prudent chiropractor in similar circumstances and with similar training and philosophy would arrive at the firm conviction that Dr. Sabel's chiropractic treatment is no longer beneficial to the patient or that such referral is necessary for the well-being of the patient. The factors Dr. Sabel shall take into account in reaching this decision are: the length of time he has been adjusting the patient;

the frequency of adjustments; the age and other characteristics of the patient; the goal agreed upon between him and the patient (e.g. relief of pain, prevention of a condition, or maintenance of a level of functioning); the degree of objective success to date in achieving that goal; the likelihood of achieving the goal in the reasonably foreseeable future; the chiropractic technique used, and the subjective viewpoint of the patient on the success to date in achieving the goal.

6. Dr. Sabel shall maintain the documentation necessary to substantiate any assertions made in advertising disseminated on his behalf, which documentation shall be maintained for three years following publication of the advertising.

7. Dr. Sabel shall endeavor to communicate clearly with his patients so that he and they function with a mutual understanding of the goals of the professional relationship. At a minimum, Dr. Sabel shall discuss with his patients whether their goal is palliative relief of symptoms "as needed" or long term correction, so as to try to avoid misunderstanding.

8. When a patient's bill will be submitted to an insurance carrier for reimbursement, Dr. Sabel shall not bill for his services at a rate which exceeds his usual and customary fee for the same services.

9. Dr. Sabel shall not permit the sale of nutritional supplements in his office until such time as this activity is expressly permitted by regulation or statute.

10. Dr. Sabel shall clearly disclose to prospective patients in advertising, in response to their direct inquiries (such as phone calls to the office) and in conjunction with personal spinal screenings in public places such as malls and fairs, exactly what will and what will not be included in any offer of free or discounted services, and what charges can be reasonably anticipated to accrue in connection with such free or discounted examination (i.e. x-ray charges). Dr. Sabel shall direct and require his employees to provide such full fee disclosures in response to inquiries. He shall also direct and require that when he or his employees personally invite a patient to a "free" chiropractic examination or consultation, they simultaneously tell the patient of likely additional charges, such as x-ray charges.

11. All of the above provisions shall be applicable to all chiropractors under Dr. Sabel's employ to the extent that these chiropractic employees are subject to Dr. Sabel's supervision or direction with respect to office policies, practices and procedures.

MARCH 1, 1990

12. (a) For one year beginning ~~December 1, 1989~~, Dr. Sabel's office practice shall be monitored by a preceptor chosen by him and acceptable to the Board of Medical Examiners. Dr. Robert G. Berkowitz, D.C. shall serve as a preceptor for one year.* The preceptor shall be given a copy of this Order and shall conduct bi-monthly in-office random reviews of Dr. Sabel's new and ongoing patient records, x-rays (including films, equipment and facilities) and advertising. The random selections shall be made by the preceptor. The

*Name to be supplied.

preceptor shall evaluate all of the above from the standpoint of compliance with generally accepted chiropractic standards, pertinent statutes and regulations, and the provisions of this Order.

(b) The preceptor shall provide Dr. Sabel with such education and training as the preceptor deems necessary in the areas of x-ray technique, recordkeeping, patient treatment and case management, and advertising. Additionally, the preceptor shall discuss with Dr. Sabel whether a referral should be made for any ongoing patients as per ¶5 above.

(c) The cost of the preceptor shall be mutually agreed upon between Dr. Sabel and the preceptor and shall be completely borne by Dr. Sabel. These costs shall not be passed on to patients in the form of increased fees. The fee which is agreed upon shall be disclosed to the Board.

(d) Dr. Sabel shall cause the preceptor to submit to the appropriate Board reports no later than the 10th business day following his or her visit to Dr. Sabel's office. These reports shall objectively, clearly and specifically describe the preceptor's findings as to Dr. Sabel's compliance with the standards set forth above. The reports shall also describe in reasonable detail the activities of the preceptor in his or her review of records, x-rays, cases and advertising. A copy of each report shall be sent to Dr. Sabel.

(e) The appropriate Board shall in its sole discretion have the authority to request the preceptor to provide further information in the event that the reports

received are found by the Board to be inadequate or to indicate an improper or ineffective discharge of the preceptor's responsibility under this Order.

13. Dr. Sabel shall pay to the Board of Medical Examiners a total of \$20,000 in costs for the use of the State, as follows: \$500 upon tendering of the within Order and \$500.00 per month thereafter, to be paid by check or money order on or before the 1st day of each month. In the event that Dr. Sabel fails to make any of the required payments when due, the remaining balance shall become due and payable.

14. The Board of Medical Examiners is hereby authorized to file a Certificate of Debt pursuant to N.J.S.A. 45:1-24 upon entry of this Order. The Board shall not exercise any creditor remedies based upon the entry of the certificate unless and until Dr. Sabel fails to comply with the payment provision of paragraph 13 above.

15. Except as hereinafter provided, implementation and enforcement of the within Order shall be effected by the Board of Medical Examiners until February 10, 1990 at which time implementation and enforcement of the Order shall be effected by the Board of Chiropractic Examiners. However, the Board of Medical Examiners shall retain all rights and

remedies to enforce the provisions of paragraphs 13 and 14.

By: Bruce R. Campbell
Bruce R. Campbell, A.L.J.

Michael B. Grossman D.O.
Michael B. Grossman, D.O.
President
Board of Medical Examiners

I have read the within Order and I understand its terms. I agree to be bound by the Order and I hereby give my consent to its entry by the New Jersey State Board of Medical Examiners.

Larry Sabel, D.C.